72.   (New) The apparatus of claim 1, wherein:

the sensor support is capable of maintaining the sensor at a distance away from the fixation device.

73.   (New) The apparatus of claim 1, wherein:

the sensor support is capable of maintaining the sensor at a location that is outside of an area encompassed by the fixation device.

74.   (New) The apparatus of claim 1, wherein:

a shape of the sensor support is independent of a shape of the fixation device.

75.   (New) The apparatus of claim 1, wherein:

the sensor support is capable of maintaining the sensor at a location that prevents the sensor from contacting the fixation device.

REMARKS

With the addition of claims 70-75, claims 1-75 are now pending in the above-referenced application. Applicants acknowledge that claims 20-23 and 41-69 have been withdrawn from consideration pursuant to the election made by Applicants in the Response To Restriction Requirement dated November 4, 1999.

Claims 1-4, 19, and 24-26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,967,986 to Cimochowski et al. ("Cimochowski"). Applicants have amended claim 1 to recite that the sensor support includes a surface for receiving a sensor. Support for this amendment is found at least at page 7, lines 15-19, of the specification. In rejecting these claims, the Examiner states that Cimochowski teaches "an endoluminal implant comprising a fixation device and a sensor for attachment to the device." Office Action at page 3. As support for this assertion, the Examiner relies on Figure 19.

Although Applicants have no reason to dispute the accuracy of this quoted statement, Applicants submit that Cimochowski nevertheless does not anticipate claim 1. In order for a reference to anticipate a claim, "every element of the claimed invention must be identically shown in a single reference." In re Bond, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) (emphasis added). Therefore, in order to demonstrate that Cimochowski anticipates claim 1, the Examiner is obliged by § 102 to establish that

NY01 293007 v 1   2